



Grand Jurors Journal

An Association of Former Grand Jurors

Winter 1996 - Howard Rien, Editor 925 Dowler Drive, Eureka, CA 95501-1216

Message from the President

SB 1457, KOPP: Governor Wilson signed this into law September 30th. The legislative committee teamwork paid off. Kudos to Hilda and Clarence for their efforts. They are busy preparing a "How to Implement" informational guide for future distribution.

STATE GRAND JURY? Senator Kopp is currently considering introducing legislation to establish a state grand jury. This will be discussed at the regional board meetings in January.

CSAC (California State Association of Counties) Grand Jury Reform Task Force Report: Armed with the scrutinizing counsel of Steve Phipps and Les Daye, I attended the two brief meetings (Sept. 30 and Oct. 21) of the CSAC Grand Jury Reform Task Force held in a posh conference room at the five-story CSAC headquarters - one block from the state capitol building. Al Amaro, Stan Wolfe and I (the only veteran jurors) spoke and voted against many of the CSAC proposals we believed threatened the integrity and independence of the grand jury system; we were out-voted from the get-go. Al Amaro traveled to San Diego to oppose the "Task Force" proposals before the CSAC State Board in late November. The CSAC State Board approved the grand jury reform package despite Al's objections.

In my view, the CSAC Task Force process has violated every rule that it plans to impose upon grand juries around the state and, in its haste, has utterly failed to fulfill the broad-based and comprehensive evaluation of the California grand jury system it publicly boasted undertaking in September.

The membership of the CSAC task force did not encompass a reasonable cross-section of appropriate interests - neither the courts nor the prosecutors were represented. Most of the task force members received no training nor orientation about the grand jury system. The majority, for instance, insisted on changing grand jury tenure to 18 months despite being informed that it would require a constitutional amendment. Mike Nevin, President of CSAC and task force chair (who reportedly advocated the abolition of the grand jury in his inaugural speech last year), also proposed changing the name of the grand jury to something like "citizens review committee." The most onerous CSAC proposals provide local officials with authority to intervene in the grand jury's draft report writing process prior to approval of the reports by the court!

No comprehensive studies were conducted, no quantitative or qualitative information was gathered to justify the CSAC recommendations. This same task force, however, demands of grand juries that only recommendations supported by verifiable findings be published. Such a CSAC lobbying effort can only be perceived as being self-serving. The county tax payers whose taxes support CSAC might well ponder how those funds are being spent.

I was just told by a CSAC insider that some proposals are currently being reconsidered and that a third task force meeting is in the works. The task force did agree to include weak provisions for juror training and facilities. However, at this point, it looks like we may have to rally some opposition to most of these CSAC grand jury reform proposals in 1997.

**-Dan Taranto
President, CGJA**

Officers

President

Dan Taranto
890 Cloudswood Road
Fieldbrook, CA 95519
(707) 839-4844
FAX: (707) 839-9730
taranto@htan.org

1st Vice-President - South

Jerome Johnson
1366 Shelley Avenue
Upland, CA 91786-3245
(909) 982-0513
FAX: (909) 982-2013

1st Vice-President - North

Jack Sanger
P. O. Box 1914
Crescent City, CA 95531
(707) 464-1953
FAX: 464-3161

Treasurer

Charline Combs
1059 Rosewood Avenue
Camarillo, CA 93010
(805) 482-3175

Membership Chairman

Michael Miller
39 De Sabla Road
San Mateo, CA 94402
(415) 344-1074

Editor

Howard Rien
925 Dowler Drive
Eureka, CA 95501-1216
(707) 445-8422
FAX: (707) 445-9455
BDXN18A@Prodigy.com

CHANGES AHEAD?

The California Civil Grand Jury system, as we know it, may change. Will it? What kind of changes? When? What is our role (read that *duty*) in this process? It's often said that people don't mind improvements, it's just the change they dislike. Will changes in our very

special grand jury system improve or hamper its effectiveness?

CSAC, California Association of Counties, has an active committee working on proposed changes to the system. Fortunately, we have strong and wise active participants watching and commenting on the proceedings, but we must remember that our representation is not a voting position and we must all be on our guard. I don't know the total make-up of the committee, but the CAO of my county (Humboldt) is on the committee and our President Dan is an active participant so we should be kept pretty well informed. From what little I have heard it does not sound good for the system as we know it. Humboldt County contributes \$20,500 in annual dues to CSAC plus the expenses for those attending the meetings. These are taxpayers dollars, so we hope they are being used to advocate the taxpayers' position. We know also that CSAC opposed Proposition 218 and that the League of California Cities, also tax supported, donated \$50,000 to a "No on 218" committee. I sometime wonder, are these "trade organizations", funded in whole or in part by tax revenues, really a good bang for the buck? Perhaps that is something grand juries should consider investigating.

In the last edition of the *Journal* I brought up the question of a State Grand Jury and asked for comments. So far I have received none from our members but I am still getting stories from other organizations about its need. Hopefully there will be room in this edition or the next to report on one.

I had the pleasure of spending a week in Sacramento as a member of the California Senior Legislature and even though I sometimes felt like a conservative island in a liberal sea, I was pleasantly surprised to note that many of the Legislators had served on a grand jury. Nice to know that so many are still working to serve their fellow citizens.

That's 30 until next edition.

Howard

ASSOCIATION NEWS

From the South. . .

The South Region Board of Directors meeting will be held with the San Diego County Past Grand Jurors Association:

January 8, 1997 - 11 a.m.
South Region Board Meeting - 1 p.m.
Monterey Whaling Room
Mission Valley Hilton
901 Camino Del Rio
San Diego, California

East bound - take Mission Center Road off ramp

All Gabbs, President of the San Diego County Grand Jurors Association has graciously invited us to meet with them. Please, as a courtesy, let him know that you are planning to attend. Phone (619) 295-9037. I had difficulty because of the By-laws and the holidays. This meeting also occurs before the state teleconference. I personally see it as a viable solution at this time. Thank you, San Diego. The general membership is invited and welcome to attend.

Dan Taranto came to our South Region Board meeting in Camarillo. We welcomed his contribution. I missed the last state teleconference.

Dr. Joe DiPeri brought forth the idea to break up the North and South Regions into cluster county units. I'd like to see a unit in each county. Maybe this step might be an intermediate step in that direction.

Membership is still important. California has 58 counties - most of these have 19 grand jurors per year, for a total of over 1,100. Please give the basic structure and increasing of membership your best intelligence. The cause deserves no less.

ORANGE COUNTY - At long last, the Board of Supervisors has approved a recommendation of the 1992-93 grand jury for a Tracking and Implementation and Review Committee (TIRC). At least two previous Grand Juries recommended a TIRC and were rejected by the Supervisors.

TIRC will be composed of seven members, appointed by the GJAOB Board of Directors. The Committee Chairman will be Cheryl Brothers. Its purpose will be to look into past grand jury reports' recommendations and corresponding county responses.

SAN BERNADINO County is attempting to re-institute a general orientation of all nominees and applicants for the grand jury. Major emphasis is being placed on implementation this year. The state is developing an orientation program and it also has a general handbook. These are basic reference material. Write to Dan Taranto, state president for further information.

- - Jerome Johnson, 1st V.P. - South

Around the State

North Region meeting set

Anyone who has an agenda item for the next north region teleconference needs to get the information to Dan Taranto promptly so the agenda package can be compiled.

The teleconference meeting will be held in January. General CGJA members who'd like to take part are asked to phone or e-mail Dan Taranto at (707) 839-4844 or taranto@htan.org.

County Associations elect

Former CGJA president Pat Yeomans notes that four County Grand Jurors Associations now have new presidents. They are:

SAN DIEGO COUNTY GJA:

Al Gabbs
3953 Pringle Street
San Diego, CA 92103
(619) 295-9037

LOS ANGELES COUNTY GJA:

George Ackerman
1512 Chelsea Road
Palos Verdes Estates, CA 90274
(310) 378-5725

RIVERSIDE COUNTY GJA:

Kenneth Dukes
562 Bolt Lane
Hemet, CA 92544
(909) 927-3130

ORANGE COUNTY GJA:

Jody Harrod
5 Breakwater Drive
Corona Del Mar, CA 92625
(714) 347-3082

Can you help?

Program details for the 16th Annual CGJA Conference at Asilomar

August 22, 23, and 24 are now being worked out.

Anyone who'd like to help out in any way at the conference is asked to get in touch with Dan Taranto to volunteer.

Training success

Al Amaro, who spearheaded the Yuba County Citizens Alliance, announces that the tentative date for the 4th Annual Grand Jury Seminar is August 13 and 14. Tentative location for this excellent training program is The Refuge in Yuba City, which is noted for its cuisine - and state of the art air conditioning and sound systems.

The 3rd Annual Seminar held last August at Yuba College had an enrollment of 164 new and carryover grand jurors representing 18 counties.

Each year the number of attendees has increased as word of the excellence of the two-day training session has spread.

YCCA purpose in sponsoring these seminars is to provide either initial or supplemental training to new grand jurors at minimal costs in these days of governmental belt-tightening.

Anyone interested in further information about the training seminars can get in touch with YCCA at P. O. Box 2652, Marysville, CA 95901, Voice: (916) 743-3660, Fax: (916) 743-3329.

Web Site planned

For those who are connected with the Internet (or who intend to venture into cyberspace), planning is underway for a World Wide Web site for the California Grand Jurors Association.

The *Journal* would like to have the e-mail addresses for all juries that currently have either such an address or a World Wide Web site. Please e-mail to alphamick@htan.org.

Of General Interest

Final Word on SB 1457

Senate Bill 1457 passed its final hurdle: Governor Pete Wilson signed it in its original, unamended form.

Although attempts had been made by various legislators or committees to amend the original bill, these amendments were all stopped before the Governor put his pen to the paper.

The new law requires a specific and detailed response from a subject agency to findings and recommendations of a grand jury report. Several counties had already adopted such a response format and had found it both workable and helpful to the jury - and, also, to the cooperating agency. The responses must include either a time frame for implementation of a recommendation or a detailed explanation as to why such an implementation would not be appropriate.

SB 1457 authorizes a grand jury to request a subject agency to appear before the grand jury to discuss the verify the grand jury findings. **Note: this is permissive. A grand jury is not required to have such an agency contact.**

A grand jury is mandated to provide an agency a copy of the portion of the grand jury report relating to that agency **48 hours prior to its public release and after the approval of the supervising judge.** [Ed. note: The highlighted portions of the summary indicate parts of the bill that were not made adequately clear to some sitting juries who may only have seen the bill with suggested amendments.]

A full copy of this bill as enacted and signed should be available shortly at county law libraries or from the offices of the state senators for each district.

Commission folds

The California Constitution Revision Commission has died. This commission was the brainchild of State

Senator Lucy Killea, I-San Diego, was established by Senate Bill 16, signed by Governor Pete Wilson in October 1993 and given an initial funding of \$200,000.

State Grand Jury Needed?

The Boards of Supervisors of the Counties of Plumas and Solano among other groups have endorsed the proposal of a California State Grand Jury. The proposed jury would be an independent authority with full law enforcement powers, whose charge is to enforce violations of state law by elected officials.

The idea grew in part from the admonition of U. S. District Court Judge George C. Pratt in disposing of the ABSCAM 7 several years ago:

"Corrupt public officials pose a greater danger to this country than all of the drug traffickers combined. such officials not only betray their constituents, but also contribute to a moral decay in American society that many view as the forerunner of economic, political and social disaster."

How do you feel about this? Write and let the Journal editor know.

***Proceedings* issued**

Proceedings of the 15th Annual Conference of the California Grand Jurors Association were sent to members and attendees by Pat Yeomans (former CGJA president) and her committee recently.

Getting a copy of the *Proceedings* means those who were unable to attend can still gain the information imparted by speakers and panel members at the Association's annual gathering.

Copies of past *Proceedings* are available at a nominal price from CGJA President Dan Taranto. He can be reached at (707) 839-4844 or by e-mail at taranto@htan.org.

Upbeats

Sixteenth Annual CGJA Conference - at Asilomar

Grand Jury Reform will be the focus of the 16th Annual CGJA Conference to be held at the Asilomar Conference Center on August 22, 23, and 24, 1997. Now is not too soon to start planning to attend.

Asilomar is part of the California Park System. The location makes an ideal conference center at Asilomar State Beach on the Monterey Peninsula at Pacific Grove. The spectacular combination of dunes, rocks, sea - and a cool and fresh place to be during the hottest month of the year - means CGJA was fortunate to be able to reserve the hotly sought space for this annual meeting.

On-site lodging requires advance reservations. All meals will be at the conference center, as will all meetings. (Food at Asilomar is outstanding. For instance, bakery goods are baked on-site fresh daily. Special needs diets can be accommodated with sufficient advance notice.)

There'll also be time to wander amidst the dunes to watch waves and wildlife and enjoy some of California's finest scenery.

Registration packets will be mailed early in 1997.

Participation in the conference and CGJA membership is open to current and veteran grand jurors from throughout California. Anyone not a current member who'd like to receive a registration packet needs to telephone (707) 839-4844 to be placed on the mailing list.



San Mateo Association meets

The San Mateo County Association of Grand Jurors will hold a brunch meeting to which all members are invited on Saturday, January 12, 1997 at 11 a.m. at the Villa Hotel San Mateo, 3700 El Camino Real, San Mateo. The meeting is expected to last until about 1:30 p.m.

Featured speaker for the meeting will be Journalist Jerry Fuchs, whose work appears in the *San Mateo Weekly*.

Officers of the Association note their program for 1997 will include:

- a speakers bureau to publicize the grand jury system and encourage public interest in participating.

- investigation of the possibility of adopting a procedure like that of San Diego County in San Mateo County.

- review of the 1996 grand jury final report and recommendations and follow-up on implementation.

- update of the research on the implementation of grand jury recommendations of the past ten years.

- organization of special subject area projects by the members.

Regular meetings established

The San Bernadino County Grand Jurors Association holds its meetings on the Third Monday of January, March, May, July, September and November.

A board meeting at 10 a.m. precedes the general meeting at 11, which is followed by lunch at noon.

All these meetings are held at the Elks Club in San Bernadino. Members are invited to attend and take part.

THINKING LIKE A LAWYER

WHY QUESTION AUTHORITY?

At a party I recently met an interesting man, a minister in the Judaeo-Christian tradition, who was utterly shocked when I related some of my grand jury experiences to him and suggested that the role of the good citizen was to constantly, though courteously, question authority. He felt an interrogation of authority was somehow tantamount to attack upon it.

His point of view was that humans, being intrinsically bad, require checks upon their behavior in order that they may successfully comport their personal actions with a universal moral authority, best exemplified through the tenets of the great religions of the western world.

It is so on the Calvinistic theory. According to that, the one great offense of man is self-will. All the good of which humanity is capable is comprised in obedience. You have no choice; thus must you do, and no otherwise: 'whatever is not a duty is a sin.' Human nature being so radically corrupt there is no redemption for anyone until human nature is killed within him. To one holding this theory of life, crushing out any of the human faculties, capacities, and susceptibilities, is no evil. . . . This is the theory of Calvinism, and it is held in mitigated form by many who do not consider themselves Calvinists. . . .

So wrote John Stuart Mill in his classic 1859 work *On Liberty*, an indispensable piece of writing for anyone who would attempt to understand the precepts of American individualism as sketched out by Thomas Jefferson and the Enlightenment thinkers.

On Liberty makes the case for the freedom of the human being and, after close examination of the issues, concludes that human beings should be completely free to do as they wish so long as what they wish to do does not harm another. Obviously the problems are in the working out. Thus our own Justice Oliver Wendell Holmes in defining the parameters of free speech and action indicated that one could not falsely shout "Fire!" in a crowded theater or swing one's arm beyond the boundary of the other fellow's nose - - these have great immediate actual likelihood of causing harm.

In order to further aid and assist the grand jury process, it seems to me that one must first determine whether the jury feels the role of government is to assist the individual person attempting to lead a free and individual life finding what satisfactions are most amenable to that individual (the "pursuit of happiness") or whether the role of the government is to draft social policies which loosely mirror the views its politicians hold on their belief that such view are what - - through the use of sound bite and televisions - - can get them elected.

Probably everyone would agree, at this point in our history, that we need fewer laws. But do we need less respect for government authority? Curiously, the person who wants the zoning laws removed so he may dig a lead mine next to a child care center is often the same person who believes that prayer ought to be reinstated in the schools. The man who believes that he ought to be able to drink six Scotch-on-the-rocks in his own home would make another man a criminal for smoking an herb.

Rationality does not seem to be a useful tool for discussing authority.

Consider the minister I met at the party. He and I lead outward lives of remarkable similarity. We obey authority mainly: he obeys it because it seems to him an expression of a higher order; I obey it because I am aware of its ability to crush me. I believe that the role

of government should be passive - - to keep my actions from harming other. He believes the government's role should be active - - to make me into a more moral individual.

Had I not served on a grand jury I doubt that - - even as a lawyer - - I should have become much concerned with the problem of authority. In our society an educated white male of middle age and propertied status (without a criminal record or bad breath) has little to worry about from the state. People who can afford it have little to fear from authority.

But these are curious times. . . and I invite us all to consider the proper role for governmental power.

A poor little fat security guard's brag about wanting to be a hero and his matchup with a "profile" whose parameters remain undisclosed constitutes probable cause to make him a suspect in a despicable bombing. An airplane explodes and a new terrorism bill is passed even though the cause of the crash appears increasingly to be mechanical (unless one wants to believe a former press secretary who blames friendly fire). The prison guard lobby successfully pushes for the adoption of the 3-strikes law and, coincidentally, new prisons and more guards. An intelligence officer travels to Los Angeles to explain that he doesn't know if his agency is involved in selling crack cocaine. A local government decides teen-age boys can't wear their baseball hats backwards while in government buildings because such wearing constitutes a "gang uniform."

Assuming such absurd things should ever happen (and assuming they are legally proper subjects for a grand jury to investigate), what should be the thrust of the grand jury's investigation?

Does the government know more than we do about what is best for us? One must think carefully before answering. In general our government now feels that it is managing okay if it makes things more comfortable for the comfortable. If we are among the comfortable we may think that way ourselves.

The reason that we must question the authority of our present institutions to act is that significant numbers of persons are not comfortable, and uncomfortable persons are. . . well . . . dangerous.

The drug problem provides a perfect springboard for my next essay and a conclusion to this one. Should a grand jury help local government in the "drug war" or should a grand jury question what business the government has proscribing drugs to free persons in the first place? We know that deaths by aspirin overdose and crack cocaine are about even, while fetal alcohol syndrome harms millions more children than the few thousand born addicted to crack cocaine. Fifty-five percent of us know that marijuana is a splendid pain and anti-nausea medication and some of us know that there have been no marijuana reported deaths in California this year.

Businessmen who feel that the government is impeding their ability to make a profit have no problems about questioning the authority of government to engage in regulation and action. If we are to preserve and enhance the democratic ideals our founders envisioned we must begin to question - - and question deeply and well - - that authority in other areas of human behavior as well.

- - Steven R. Phipps

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(The opinions herein are those of the author, a California attorney, and do not necessarily reflect the view of the CGJA.)

Have you sent in your membership dues yet? If not, now's the time to renew!